3rd JUDICIAL DISTRICT COURT Dona Ana County 12/22/2021 11:20 AM DAVID S. BORUNDA CLERK OF THE COURT Bertha A Nevarrete

STATE OF NEW MEXICO COUNTY OF DOÑA ANA THIRD JUDICIAL DISTRICT COURT

THE STATE OF NEW MEXICO, ex rel. HECTOR BALDERAS, ATTORNEY GENERAL,

Plaintiff.

88888 § § v.

STERIGENICS U.S., LLC, SOTERA HEALTH HOLDINGS, LLC, SOTERA HEALTH LLC, and SOTERA HEALTH COMPANY,

Defendants.

No.: D-307-CV-2020-02629

Hon. Marci Beyer

ORDER ON MOTIONS TO DISMISS

THIS MATTER having come before the Court upon defendants Sterigenics U.S., LLC ("Sterigenics"), Sotera Health Holdings, LLC, Sotera Health LLC, and Sotera Health Company's (collectively "Sotera Defendants," and with Sterigenics, "Defendants") Motion to Dismiss Under Rule 1-012(B)(6) for failure to state a claim ("Rule 1-012(B)(6) Motion") and the Sotera Defendants' Motion to Dismiss Under 1-012(B)(2) for lack of personal jurisdiction ("Personal Jurisdiction Motion"), and the Court being fully advised of the issues and arguments presented therein, as well as the arguments presented by the parties during the October 28, 2021 motion hearing, the Court rules as follows:

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- 1. The Sotera Defendants' Personal Jurisdictional Motion is held in abeyance while Plaintiff completes discovery from the Sotera Defendants concerning the jurisdictional issue.
- 2. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's request for public health monitoring remedies. See, e.g., Complaint, ¶¶ 177, 201. The Court finds

Plaintiff's request for "an order requiring Defendants to fund a public health monitoring

program designed to detect, assess, and treat medical disorders associated with EtO

exposure, under State supervision" and "to abate the public nuisance" is adequately

pleaded.

3. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's statutory and

common law public nuisance claims (Counts I and II) for failure to state a claim upon

which relief may be granted. The Court finds Plaintiff's statutory and common law

public nuisance claims adequately pleaded.

4. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's strict liability claim

(Count III) for failure to state a claim upon which relief may be granted. The Court finds

Plaintiff's strict liability claim adequately pleaded.

5. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's claim for negligence

(Count IV) for failure to state a claim upon which relief may be granted. The Court finds

Plaintiff's negligence claim adequately pleaded.

6. Defendants' Rule 1-012(B)(6) Motion seeks dismissal of Plaintiff's claim under the

Unfair Practices Act ("UPA") (Count VI). The Court finds Plaintiff's UPA claim

adequately pleaded.

For these reasons, as well as the reasons set forth during the October 28, 2021 hearing,

Defendants' Rule 1-012(B)(6) Motion is **DENIED**.

Defendant Sterigenics U.S., LLC shall answer the Complaint no later than 30 days from

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entry of this Order.

IT IS SO ORDERED.

Date: 12-20-2021

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Marci Beyer, District Judge

Prepared by:

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